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| 09/821,582      | 03/29/2001  | Daniel K. Chappell   | 1504-0037           | 3464             |

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EXAMINER

TSE, YOUNG TOI

ART UNIT PAPER NUMBER

2637

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/821,582

**Applicant(s)**

CHAPPELL, DANIEL K.

**Examiner**

YOUNG T. TSE

**Art Unit**

2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 26-30 is/are rejected.
- 7) ☒ Claim(s) 21-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 032901.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because not all the arrow flows are shown in Figures 1-3 to indicate the signal flows between each block element. Further, in Figure 3, reference sign "140" should be labeled to indicate the detailed embodiment of the tuner 140 of Figure 2; the symbol "~" of the VCO 145 is not within the block; and the reference signs "142", "145a" and "153" are way off the blocks. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: on page 8, line 17, "wide band" should be "wideband"; on page 11, lines 15-16, the two applications need to be updated, both are now abandoned; on page 11, line 21, "exemplary tuner 140 of" appears to read "exemplary of tuner 140"; on page 14, line 18, "an FFT" should be "a Fast Fourier Transform (FFT)" to define FFT; and on page 15, line 24, "equalizer 206" should be "equalizer". Appropriate correction is required.

***Claim Objections***

3. Claims 1-25 and 27-30 are objected to because of the following informalities:

In claim 1, lines 9 and 10, "signal strength" and "channel" should be "signal strength measurement" and "channel frequency", respectively.

In claim 5 (line 2) and claim 11 (lines 4-5 and 7), "digital channel" should be "digital channel frequency".

In claim 8 (lines 4 and 5), claim 9 (line 2), and claim 10 (line 2), "absolute level" should be "absolute level frequency".

In claim 8, lines 4 and 5, "said listed" should be "said listed digital".

In claim 20, line 2, "said selected channel frequency, wherein said selected channel" should be "said selected digital channel frequency, wherein said selected digital channel frequency".

In claim 21, lines 3, 4 and 12", the words "that" and "then" should be deleted.

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In claim 22, lines 1 and 3, "claim 20" and "frequency response" should be "claim 21" and "frequency response measurement", respectively.

In claim 23, line 2, "said absolute and relative measurements" should be "said absolute power and relative frequency response measurements".

In claim 24, line 2, "said absolute measurement, said relative measurement" should be "said absolute power measurement, said relative frequency response measurement".

In line 1 of claims 27, 29 and 30, "claim 25" should be "claim 26".

In claim 28, line 1, the word "further" should be deleted.

In claim 30, lines 1, 2 and 4, "system", "a subsequent digital channel frequency", and "said subsequent digital channel frequency" should be "apparatus", "a subsequent selected digital channel frequency band", and "said subsequent selected digital channel frequency band", respectively.

Wherein the dependent claims 2-4, 6-7, 12-19, and 25 are depended upon the independent claims 1 and 11.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to explain the operation of the claimed subject matter of claim 11 and the configuration of the claimed subject matter does not correspond to the disclosure of Figures 1-3 or the flowchart of Figure 6 to enable one skill in the art to understand the present invention. Wherein claims 12-20 are depended upon the independent claim 11.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-10, 15, 17-20, and 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 (line 4), claim 6 (line 3), and claim 26 (line 5), the Applicant the requested to clarify the difference between "absolute signal strength measurement" and "absolute signal strength measurements".

In claim 1 (lines 6-7), claim 8 (lines 2-3), claim 15 (lines 1-2), claim 18 (lines 1-2), claim 19 (lines 1-2), and claim 20 (line 3), the phrases "said particular selected digital channel", "said extrapolation for a combination of absolute level responses of said adjacent channels", and "said list of channels" all lack antecedent basis.

Wherein claims 2-5, 7, 9-10, 17, and 27-30 are depended upon claims 1 and 26.

***Allowable Subject Matter***

8. Claims 1-10 and 26-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

9. Claims 21-25 would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

10. Claims 11-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to show or suggest that a method or an apparatus for determining a frequency response of a communication system to obtain absolute signal strength measurements for a selected digital channel frequency band, obtain relative frequency response measurements for the selected digital channel frequency band, and combine the relative frequency response measurements and the absolute signal strength measurements to obtain an absolute level frequency response for the selected digital channel frequency band.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

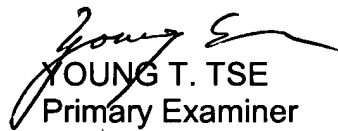
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References White, Douglass et al., Harp et al., Scarpa et al., Bussan et al., and Tsui et al. are made of record as describing a related receiver circuit for determining frequency response of a communication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is (571) 272-3051. The examiner can normally be reached on Monday and Wednesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
YOUNG T. TSE  
Primary Examiner  
Art Unit 2637